

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

ROGER LEE HAYNES,

Plaintiff,

vs.

NOLA FOULSTON, et al.,

Defendant(s).

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Case No. CIV-16-1152-F

REPORT AND RECOMMENDATION

Plaintiff has filed an Application to Proceed in District Court without Prepaying Fees or Costs (Motion) (ECF No. 2) in conformance with 28 U.S.C. § 1915. Pursuant to an order entered by United States District Judge Stephen P. Friot, this matter has been referred to the undersigned magistrate judge for initial proceedings consistent with 28 U.S.C. § 636(b)(1)(B). Having reviewed said motion, the undersigned finds that Plaintiff has sufficient funds to prepay the filing fee of \$400.00. Because he does not qualify for authorization to proceed without prepayment of the filing fee, it is recommended that Plaintiff's motion, **(ECF No. 2)**, be **DENIED** and that he be ordered to pay the full \$400.00 filing fee for this action to proceed. 28 U.S.C. § 1915(a)(1). *Lister v. Department of the Treasury*, 408 F.3d 1309, 1312 (10th Cir. 2005) (magistrate judge should issue a report and recommendation when denying motion to proceed *in forma pauperis*).

It is recommended that this action be dismissed without prejudice to refiling unless Plaintiff pays the \$400.00 filing fee in full to the Clerk of the Court within **twenty (20) days** of any order adopting this Report and Recommendation.

Plaintiff is advised that he may file an objection to this Report and Recommendation with the Clerk of this Court by **October 24, 2016**. Plaintiff is further advised that failure to timely object to this Report and Recommendation waives the right to appellate review of both factual and legal issues contained herein. *Casanova v. Ulibarri*, 595 F.3d 1120, 1123 (10th Cir. 2010).

This report and recommendation disposes of all matters referred to the undersigned Magistrate Judge in the captioned matter.

ENTERED on October 7, 2016.



SHON T. ERWIN
UNITED STATES MAGISTRATE JUDGE